IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14191 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMESHBHAI MAGANBHAI CHAUHAN

Versus

JOBANBHAI DALPATBHAI CHAUHAN

Appearance:

1. Special Civil Application No. 14191 of 2003

MR TUSHAR MEHTA for Petitioner No. 1

MR KAMLESH B MEHTA for Respondent No. 1,3

MR BHAVESH N DAVE for Respondent No. 1,3

MS SHAILI A KAPADIA for Respondent No. 1,3

RULE SERVED for Respondent No. 2,4-5,7,7

MS MANISHA SHAH A.G.P. for Respondent No. 6

RULE NOT RECD BACK for Respondent No. 6

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 21/12/2004

ORAL JUDGEMENT

1. The petitioner has by way of this petition challenged the order dated 17th September, 2003 passed by the Civil Judge (J.D.), Petlad below application at Exh.7 in Election Petition No. 1 of 2003.

2. I have heard the learned advocates for the respective parties and have perused the relevant record. While admitting the matter on 29th September, 2003, this Court had granted ad-interim relief and thereafter the same was confirmed on 9th August, 2004. Moreover, in view of the decision of the Apex Court in the case of Vadivelu v. Sundaram & Ors. reported in 2000 (8) S.C.C. p.355, the Trial Court has committed error in allowing recounting and the said order of recounting is already stayed by this Court. However, the said has been operated for almost two years and three months and the same will operate till the Election Petition is heard. It is made clear that the Trial Court shall expedite the hearing of the Election Petition and shall decide the same without being influenced by the present order passed in the petition, since the same has been passed without entering into the merits of the case.

3. With the above observation and direction, the petition stands disposed of. Rule is made absolute in terms of ad-interim relief.

[K.S. JHAVERI, J.]

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